

DIVISION 16.5. OFF-HIGHWAY VEHICLES

(Added Ch. 1816, Stats. 1971. Effective Dec. 22, 1971.)

CHAPTER 1. GENERAL PROVISIONS**Name of Act**

38000. This division may be cited as the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Applicability of Provisions

38001. (a) Except as otherwise provided, this division applies to off-highway motor vehicles, as defined in Section 38006, on lands, other than a highway, that are open and accessible to the public, including any land acquired, developed, operated, or maintained, in whole or in part, with money from the Off-Highway Vehicle Trust Fund, except private lands under the immediate control of the owner or his or her agent where permission is required and has been granted to operate a motor vehicle. For purposes of this division, the term "highway" does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.

(b) Privately owned and maintained parking facilities that are generally open to the public are exempt from this division, unless the facilities are specifically declared subject to this division by the procedure specified in Section 21107.8.

Amended Sec. 37, Ch. 563, Stats. 2002. Effective January 1, 2003.

Off-Highway Motor Vehicle Defined

38006. As used in this division, an "off-highway motor vehicle" is any of the following:

(a) A motor vehicle subject to the provisions of subdivision (a) of Section 38010.

(b) A motor vehicle registered under Section 4000, when such motor vehicle is operated on land to which this division has application.

(c) A motor vehicle owned or operated by a nonresident of this state, whether or not such motor vehicle is identified or registered in a foreign jurisdiction, when such motor vehicle is operated on lands to which this division has application.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Course of Instruction

38007. The Off-Highway Motor Vehicle Recreation Division of the Department of Parks and Recreation shall adopt courses of instruction in off-highway motor vehicle safety, operation, and principles of environmental preservation by January 1, 2005. For this purpose the division shall consult with the Department of the California Highway Patrol and other public and private agencies or organizations. The division shall make this course of instruction available directly, through contractual agreement, or through volunteers authorized by the division to conduct a course of instruction.

Amended Sec. 38, Ch. 563, Stats. 2002. Effective January 1, 2003.

CHAPTER 2. REGISTRATION OF OFF-HIGHWAY VEHICLES; ORIGINAL AND RENEWAL OF IDENTIFICATION; ISSUANCE OF CERTIFICATES ISSUANCE OF OWNERSHIP**Article 1. Motor Vehicles Subject to Identification****Issuance and Display of Identification Plates**

38010. (a) Except as otherwise provided in subdivision (b), every motor vehicle specified in Section 38012 that is not registered under this code because it is to be operated or used exclusively off the highways, except as provided in this division, shall be issued and display an identification plate or device issued by the department.

(b) Subdivision (a) does not apply to any of the following:

(1) Motor vehicles specifically exempted from registration under this code, including, but not limited to, motor vehicles exempted pursuant to Sections 4006, 4010, 4012, 4013, 4015, 4018, and 4019.

(2) Implements of husbandry.

(3) Motor vehicles owned by the state, or any county, city, district, or political subdivision of the state, or the United States.

(4) Motor vehicles owned or operated by, or operated under contract with a utility, whether privately or publicly owned, when used as specified in Section 22512.

(5) Special construction equipment described in Section 565, regardless of whether those motor vehicles are used in connection with highway or railroad work.

(6) A motor vehicle with a currently valid special permit issued under Section 38087.5 that is owned or operated by a nonresident of this state and the vehicle is not identified or registered in a foreign jurisdiction. For the purposes of this paragraph, a person who holds a valid driver's license issued by a foreign jurisdiction is presumed to be a nonresident.

(7) Commercial vehicles weighing more than 6,000 pounds unladen.

(8) Any motorcycle manufactured in the year 1942 or prior.

(9) Four-wheeled motor vehicles operated solely in organized racing or competitive events upon a closed course when those events are conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.

(10) A motor vehicle with a currently valid identification or registration permit issued by another state.

Amended Sec. 16, Ch. 1008, Stats. 1999. Effective January 1, 2000.

Definitions

38012. (a) As used in this division, "off-highway motor vehicle subject to identification" means a motor vehicle subject to the provisions of subdivision (a) of Section 38010.

(b) As used in this division, "off-highway motor vehicle" includes, but is not limited to, the following:

(1) Any motorcycle or motor-driven cycle, except for any motorcycle which is eligible for a special transportation identification device issued pursuant to Section 38088.

(2) Any snowmobile or other vehicle designed to travel over snow or ice, as defined in Section 557.

(3) Any motor vehicle commonly referred to as a sand buggy, dune buggy, or all-terrain vehicle.

(4) Any motor vehicle commonly referred to as a jeep.

Amended Ch. 1050, Stats. 1975. Effective January 1, 1976.

Identification, Identification Certificate Defined

38013. Unless otherwise provided, the terms “identification” and “identification certificate” shall have the same meaning as the terms “registration” and “registration card,” respectively, as used in Division 3 (commencing with Section 4000).

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Closed Course Defined

38014. As used in this division, “closed course” includes, but is not limited to, a speedway, racetrack, or a prescribed and defined route of travel on or off a highway that is closed to all motor vehicles other than those of participants. A closed course is one which is not available at any time for vehicular access by the general public.

Added Ch. 1050, Stats. 1975. Effective January 1, 1976.

Identification Requirements: Violations

38020. Except as otherwise provided in this division, no person shall operate, transport, or leave standing any off-highway motor vehicle subject to identification under this code which is not registered under the provisions of Division 3 (commencing with Section 4000), unless it is identified under the provisions of this chapter. A violation of this section is an infraction. Riding in violation of seasons established by Section 2412(f) and 2415 of Title 13 of the California Code of Regulations constitutes a violation of this section. This section shall not apply to the operation, transportation, or leaving standing of an off-highway vehicle pursuant to a valid special permit.

Amended Sec. 20, Ch. 908, Stats. 2004. Effective January 1, 2005.

Exemption: Special Permit

38021. (a) A manufacturer, dealer, or distributor, or his agent, owning or lawfully possessing any off-highway motor vehicle of a type otherwise required to be identified hereunder may operate or use such vehicle without an identification certificate and plate or device upon condition that each such vehicle is accompanied by a special permit issued to the manufacturer, dealer, or distributor as provided in this division.

(b) Persons licensed pursuant to Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 need not obtain such a permit provided the vehicle is operated or used under special plates issued to the licensee.

Amended Ch. 1093, Stats. 1976. Effective January 1, 1977.

Motorcycles: Transportation on Highway

38022. Notwithstanding the provisions of Section 4000, motorcycles issued a special transportation identification device pursuant to Section 38088 may be transported upon a highway to and from a closed course.

Added Ch. 1050, Stats. 1975. Effective January 1, 1976.

Operation on Highway

38025. In accordance with subdivision (c) of Section 4000, a motor vehicle issued a plate or device pursuant to Section 38160 may be operated or driven upon a highway but only as follows:

(a) On a two-lane highway, only to cross the highway at an angle of approximately 90 degrees to the direction of the roadway and at a place where a quick and safe crossing may be made, or only when the roadway is not maintained by snow removal equipment and is closed to motor vehicles that are

subject to registration pursuant to Division 3 (commencing with Section 4000), or only to cross a highway in the manner specified in subdivision (b).

(b) With respect to the crossing of a highway having more than two lanes, or a highway having limited access, a motor vehicle may cross a highway but only at a place designated by the Department of Transportation or local authorities with respect to a highway under their respective jurisdictions as a place where a motor vehicle, or specified types of motor vehicle, may cross a highway, and a vehicle shall cross the highway only at that designated place and only in a quick and safe manner.

(c) The Department of Transportation and local authorities with respect to a highway under their respective jurisdictions may designate, by the erection of an appropriate sign of a type approved by the Department of Transportation, a place where a motor vehicle, or specified type of motor vehicle, may cross a highway having more than two lanes or having limited access.

(d) A motor vehicle identified pursuant to Section 38010 may be towed upon a highway, but not driven, if the vehicle displays a plate or device issued pursuant to Section 38160.

(e) A motorcycle identified pursuant to Section 38010 may be pushed upon a highway, but not ridden, if the motorcycle has displayed upon it a plate or device issued pursuant to Section 38160.

(f) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may operate or drive an off-highway vehicle identified pursuant to Section 38010 upon a highway in an emergency response situation.

Amended Sec. 1, Ch. 135, Stats. 2003. Effective January 1, 2004.

Designating Highways: Combined Use

38026. (a) In addition to Section 38025 and after complying with subdivision (c) of this section, if a local authority, an agency of the federal government, or the Director of Parks and Recreation finds that a highway, or a portion thereof, under the jurisdiction of the authority, agency, or the director, as the case may be, is located in a manner that provides a connecting link between off-highway motor vehicle trail segments, between an off-highway motor vehicle recreational use area and necessary service facilities, or between lodging facilities and an off-highway motor vehicle recreational facility and if it is found that the highway is designed and constructed so as to safely permit the use of regular vehicular traffic and also the driving of off-highway motor vehicles on that highway, the local authority, by resolution or ordinance, agency of the federal government, or the Director of Parks and Recreation, as the case may be, may designate that highway, or a portion thereof, for combined use and shall prescribe rules and regulations therefor. No highway, or portion thereof, shall be so designated for a distance of more than three miles. No freeway shall be designated under this section.

(b) The Off-Highway Motor Vehicle Recreation Commission may propose highway segments for consideration by local authorities, an agency of the federal government, or the Director of Parks and Recreation for combined use.

(c) Prior to designating a highway or portion thereof on

the motion of the local authority, an agency of the federal government, or the Director of Parks and Recreation, or as a recommendation of the Off-Highway Motor Vehicle Recreation Commission, a local authority, an agency of the federal government, or the Director of Parks and Recreation shall notify the Commissioner of the California Highway Patrol, and shall not designate any segment pursuant to subdivision (a) which, in the opinion of the commissioner, would create a potential traffic safety hazard.

(d) A designation of a highway, or a portion thereof, under subdivision (a) shall become effective upon the erection of appropriate signs of a type approved by the Department of Transportation on and along the highway, or portion thereof.

The cost of the signs shall be reimbursed from the Off-Highway Vehicle Trust Fund, when appropriated by the Legislature, or by expenditure of funds from a grant or cooperative agreement made pursuant to Section 5090.50 of the Public Resources Code.

Amended Sec. 39, Ch. 563, Stats. 2002. Effective January 1, 2003.

Operation on Designated Highways

38026.5. (a) In accordance with subdivision (c) of Section 4000, a motor vehicle issued a plate or device pursuant to Section 38160 may be operated or driven on a local highway, or a portion thereof, which is designated pursuant to Section 38026 if the operation is in conformance with the Vehicle Code and the vehicle complies with off-highway vehicle equipment requirements specified in this division.

(b) Notwithstanding subdivision (a), it is unlawful for any person using an off-highway vehicle on a combined-use highway to do any of the following:

- (1) Operate an off-highway motor vehicle on the highway during the hours of darkness.
- (2) Operate any vehicle on the highway which does not have an operational stoplight.
- (3) Operate any vehicle on the highway which does not have rubber tires.
- (4) Operate any vehicle without a valid driver's license of the appropriate class for the vehicle operation in possession.
- (5) Operate any vehicle on the highway without complying with the provisions of Article 2 (commencing with Section 16020) of Chapter 1 of Division 7.

Amended Ch. 44, Stats. 1987. Effective January 1, 1988.

Movement of Motor-Driven Cycles Adjacent to a Highway

38027. Motor-driven cycles issued a plate or device pursuant to Section 38160 may be moved, by nonmechanical means only, adjacent to a roadway, in such a manner so as to not interfere with traffic upon the highway, only for the purpose of gaining access to, or returning from, areas designed for the operation of off-highway vehicles, when no other route is available. The Department of Transportation or local authority may designate access routes leading to off-highway parks as suitable for the operation of off-highway vehicles, if such access routes are available to the general public only for pedestrian and off-highway motor vehicle travel.

Amended Ch. 1093, Stats. 1976. Effective January 1, 1977.

Off-Highway Vehicles Delivered to Dealer

38030. Notwithstanding the provisions of Section 38020,

an unidentified off-highway motor vehicle subject to identification may be left standing upon a highway or public or private property adjacent to the place of business of a dealer of such motor vehicles when done so in connection with the loading and unloading or storage of such vehicles to be used in the dealer's business, unless already prohibited by law.

Amended Ch. 78, Stats. 1973. Effective January 1, 1974.

Article 2. Original Identification

Application for Identification

38040. Application for the original identification of a motor vehicle, other than a motorcycle, required to be identified pursuant to this division shall be made by the owner to the department upon the appropriate form furnished by it and shall contain all of the following:

- (a) The true, full name, business or residence and mailing address, and the driver's license or identification card number, if any, of the owner and the legal owner, if any.
- (b) The name of the county in which the owner resides.
- (c) A description of the vehicle, including the following, insofar as it may exist:
 - (1) The make, model, and type of body.
 - (2) The vehicle identification number or any other number as may be required by the department.
- (d) Information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to identification.

Amended Ch.1221, Stats. 1994. Effective January 1, 1995.

Application for Identification: Motorcycle

38041. Application for the original identification of a motorcycle shall be made by the owner to the department upon the appropriate form furnished by it, and shall contain:

- (a) The true, full name, business or residence and mailing address, and the driver's license or identification card number, if any, of the owner and the legal owner, if any.
- (b) The name of the county in which the owner resides.
- (c) A description of the motorcycle including the following data insofar as it may exist:
 - (1) The make and type of body.
 - (2) The motor and frame numbers recorded exactly as stamped on the engine and frame, respectively, by the manufacturer, and any other identifying number of the motorcycle as may be required by the department.
- (3) The date first sold by a manufacturer or dealer to a consumer.

(d) Such information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to identification.

(e) The department shall maintain a cross-index file of motor and frame numbers identified with it.

The application shall be accompanied by a tracing, tape lift, or photograph of the motor or frame numbers, or where the facsimile of the motor or frame numbers cannot be obtained, a verification of the numbers shall be required.

Amended Ch. 1221, Stats. 1994. Effective January 1, 1995.

Coownership of Off-Highway Vehicle

38045. Ownership of title to an off-highway motor vehicle subject to identification under this division may be

held by two (or more) coowners as provided in Section 682 of the Civil Code, except that:

(a) A vehicle may be identified in the names of two (or more) persons as coowners in the alternative by the use of the word “or.” A vehicle so identified in the alternative shall be deemed to be held in joint tenancy. Each coowner shall be deemed to have granted to the other coowners the absolute right to dispose of the title and interest in the vehicle. Upon the death of a coowner, the interest of the decedent shall pass to the survivor as though title or interest in the vehicle was held in joint tenancy, unless a contrary intention is set forth in writing upon the application for identification.

(b) A vehicle may be identified in the names of two (or more) persons as coowners in the alternative by the use of the word “or” and if declared in writing upon the application for identification by the applicants to be community property, or tenancy in common, shall grant to each coowner the absolute power to transfer the title or interest of the other coowners only during the lifetime of such coowners.

(c) A vehicle may be identified in the names of two (or more) persons as coowners in the conjunctive by the use of the word “and” and shall thereafter require the signature of each coowner or his personal representative to transfer title to the vehicle, except where title to the vehicle is set forth in joint tenancy, the signature of each coowner or his personal representative shall be required only during the lifetime of the coowners, and upon death of a coowner title shall pass to the surviving coowner.

(d) The department may adopt suitable abbreviations to appear upon the certificate of identification and certificate of ownership to designate the manner in which title to the vehicle is held if set forth by the coowners upon the application for identification.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Undertaking or Bond

38050. In the absence of the regularly required supporting evidence of ownership upon application for identification or transfer of a vehicle, the department may accept an undertaking or bond which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the vehicle, any person acquiring a lien or security interest thereon, or the successor in interest of such purchaser or person against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the vehicle.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Return and Surrender of Undertaking or Bond

38055. In the event the vehicle is no longer identified in this state and the currently valid certificate of ownership is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or prior thereto.

Amended Ch. 517, Stats. 1982. Effective January 1, 1983.

Change of Address

38060. (a) Whenever any person, after making application for identification of an off-highway motor vehicle subject to identification, or after the identification either as owner or legal owner, moves or acquires a new address

different from the address shown in the application or upon the certificate of ownership or identification certificate, that person shall, within 10 days thereafter, notify the department of his or her old and new addresses.

(b) Any owner having notified the department as required in subdivision (a), shall immediately mark out the former on the face of the certificate and write with pen and ink or type the new on the face of the certificate immediately below the former address and initial the entry.

Amended Ch. 466, Stats. 1982. Effective January 1, 1983.

Article 3. Evidences of Identification

Issuance of Certificate of Ownership and Identification Certificate

38070. The department, upon identifying an off-highway motor vehicle subject to identification, shall issue a certificate of ownership to the legal owner and an identification certificate to the owner, or both to the owner if there is no legal owner.

Amended Ch. 1093, Stats. 1976. Effective January 1, 1977.

Contents of Identification Certificate

38075. (a) The identification certificate shall contain upon the face thereof the date issued, the name and residence or business or mailing address of the owner and of the legal owner, if any, the identification number to the vehicle, and a description of the vehicle as complete as that required in the application for the identification of a vehicle.

(b) The director may modify the form, arrangement, and information appearing on the face of the identification certificate and may provide for standardization and abbreviation of fictitious or firm names thereon whenever he finds that the efficiency of the department will be promoted thereby, except that general delivery or post office box numbers shall not be permitted as the address of the identified owner unless there is no other address.

Amended Ch. 1213, Stats. 1989. Effective January 1, 1990.

Contents of Certificate of Ownership

38076. The certificate of ownership shall contain:

(a) Not less than the information required upon the face of the identification certificate.

(b) Provision for notice to the department of a transfer of the title or interest of the owner or legal owner.

(c) Provision for application for transfer of identification by the transferee.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Use and Display on Vehicles of Copies of Report of Sale Form and Identification Devices

38080. (a) The department may authorize, under Section 4456, dealers licensed under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 to use numbered copies of the report-of-sale form and corresponding temporary identification devices upon off-highway motor vehicles subject to identification that they sell.

(b) Off-highway motor vehicles subject to identification that are purchased from dealers not required to be licensed under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5, or that are specially constructed by the owner or owners, may be operated off-highway, as provided by this division, without an identification plate or device or

identification certificate, provided a receipt or other suitable device issued by the department is displayed upon the vehicle evidencing an application has been made and appropriate fees paid pursuant to this division, until the identification plate or device and identification certificate are received from the department.

Amended Sec. 141, Ch. 124, Stats. 1996. Effective January 1, 1997.

Identification Certificate Kept with Vehicle

38085. (a) Every owner upon receipt of an identification certificate shall maintain the same or a facsimile copy thereof with the vehicle for which it is issued at all times when the vehicle is operated or transported.

(b) The provisions of this section do not apply when an identification certificate is removed from the vehicle for the purpose of application for renewal or transfer of identification.

Amended Ch. 1268, Stats. 1988. Effective January 1, 1989.

Special Permits for Manufacturers, Dealers, and Distributors

38087. (a) Upon payment of the fees specified in Section 38231, the department may issue to manufacturers, dealers, distributors, or their agents, a special permit to operate or use for the purpose of delivery, demonstration, or display, off-highway motor vehicles otherwise required to be identified under this division.

(b) Special permits issued pursuant to this section shall expire at midnight on the 30th day of June in the second calendar year following the year of issuance of such permit.

Amended Ch. 1093, Stats. 1976. Effective January 1, 1977.

Off-Highway Nonresident Special Operating Permit

38087.5. (a) Upon payment of the fee specified in Section 38231.5, the Department of Parks and Recreation may issue to a nonresident of this state a special permit to operate an off-highway motor vehicle otherwise required to be identified under this chapter.

(b) Special permits issued under this section shall expire on December 31 in the year of their issuance.

Added Sec. 2, Ch. 572, Stats. 1996. Effective January 1, 1997.

Motorcycle Used in Racing

38088. (a) Upon payment of the fee specified in Section 38232, the department shall issued to the owner of a motorcycle, which the owner has certified as being used exclusively in racing events on a closed course, a special transportation identification device for the purpose of identifying the motorcycle while it is being transported upon a highway to and from racing events on a closed course. Such device may be either a plate or a sticker, whichever is determined by the department to be the most appropriate.

(b) Such device is nonrenewable, nontransferable, and becomes invalid when the vehicle for which it was issued is sold or dismantled.

(c) A certificate of ownership may not be issued in conjunction with a special transportation identification device.

Added Ch. 1050, Stats. 1975. Effective January 1, 1976.

Stolen, Lost, or Damaged Certificate of Ownership

38090. If any identification certificate or identification plate or device is stolen, lost, mutilated or illegible, the owner

of the vehicle for which the same was issued, as shown by the records of the department, shall immediately make application for and may, upon furnishing information satisfactory to the department, obtain a duplicate or substitute or new identification under a new number, as determined to be most advisable by the department. An application for a duplicate identification certificate is not required in conjunction with any other application.

Amended Ch. 1268, Stats. 1988. Effective January 1, 1989.

Stolen, Lost, or Damaged Certificate of Ownership

38095. If any certificate of ownership is stolen, lost, mutilated or illegible, the legal owner or, if none, the owner of the vehicle for which the same was issued as shown by the records of the department shall immediately make application for and may, upon furnishing information satisfactory to the department, obtain a duplicate.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Applicability of Registration Provisions

38100. The provisions of Sections 4458, 4460, 4461, 4462, 4463, and 4464 shall be fully applicable to motor vehicles identified under this division and the terms "identification" and "identification certificate" shall have the same meaning as the terms "registration" and "registration card," respectively, as used in those sections.

Amended Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 4. Renewal of Identification

Certificates of Ownership

38110. Certificates of ownership shall not be renewed but shall remain valid until suspended, revoked, or canceled by the department for cause or upon transfer of any interest shown therein.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Expiration Date

38115. Every motor vehicle identification and identification certificate issued pursuant to this division shall expire at midnight on the 30th day of June in the second calendar year following the year of issuance of such certificate. The department may upon payment of the proper fees renew such identification.

Amended Ch. 1093, Stats. 1976. Effective January 1, 1977.

Application for Renewal

38120. (a) Application for renewal of identification of off-highway motor vehicles subject to identification shall be made by the owner not later than midnight of the 30th day of June of the expiration year. The application shall contain the true, full name and driver's license or identification card number, if any, of the owner.

(b) Whenever any application for identification or transfer of ownership of an off-highway motor vehicle subject to identification is filed with the department between June 1 and June 30 of the year of expiration, the application shall be accompanied by the full renewal fees in addition to any other fees then due and payable.

(c) Whenever an application for identification or transfer of ownership of an off-highway motor vehicle subject to identification is filed with the department between January 1 and May 31 of the year of expiration, the application may be

accompanied by full renewal fees in addition to any other fees then due and payable, which renewal fees shall be for the two-year period following June 30th of the year in which paid.

Amended Ch. 1221, Stats. 1994. Effective January 1, 1995.

Off-Highway Vehicles: Certification of Nonoperation

38121. (a) Prior to the expiration of the identification of an off-highway motor vehicle, if that identification is not to be renewed prior to its expiration, the owner of the vehicle shall file, under penalty of perjury, a certification that the vehicle will not be operated, used, or transported on public property or private property in a manner so as to subject the vehicle to identification during the subsequent identification period without first making an application for identification of the vehicle, including full payment of all fees. The certification of nonoperation is valid until the identification is renewed under subdivision (c).

(b) Each certification of nonoperation filed pursuant to subdivision (a) shall be accompanied by a filing fee of fifteen dollars (\$15).

(c) An application for renewal of identification, whether or not accompanied by an application for transfer of title to, or any interest in, the vehicle, shall be submitted to the department with payment of the required fees for the current identification period and without penalty for delinquent payment of fees imposed under this code if the department receives the application on or before the date the vehicle is first operated, used, or transported on public property or private property in a manner so as to subject the vehicle to identification and certification of nonoperation required pursuant to subdivision (a).

(d) A certification of nonoperation is not required to be filed pursuant to subdivision (a) for a vehicle on which the identification expires while being held as inventory by a dealer or lessor-retailer.

Amended Sec. 27, Ch. 719, Stats. 2003. Effective January 1, 2004.

Stolen or Embezzled Vehicles

38125. Whenever by reason of the theft or embezzlement of an off-highway motor vehicle subject to identification the owner or legal owner is not in possession of the vehicle at the time penalties accrue for failure to obtain identification, or renewal thereof, the owner or legal owner may secure the identification or renewal of the identification of the vehicle within 20 days after its recovery upon filing and affidavit setting forth the circumstances of the theft or embezzlement, if the theft or embezzlement of the vehicle has been reported pursuant to provisions of this code, without penalty for delinquent payment of fees imposed under this division.

Amended Ch. 947, Stats. 1974. Operative March 10, 1975.

Operation Pending Renewal

38130. When application for identification of an off-highway motor vehicle subject to identification has been made as required by this division, the vehicle may be operated pursuant to this division until the new indicia of current identification have been received from the department on condition that there be displayed on the vehicle the identification plate or device and validating device, if any, issued to the vehicle for the previous identification term.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Validation of Certificate

38135. The department may, upon renewing of an identification of off-highway motor vehicles subject to identification, issue a new identification certificate or may endorse or authorize the endorsement of a receipt or validation upon payment of the required fees. The receipt or validation to be stamped upon the identification certificate last issued for the vehicle during the preceding period, or upon a potential identification certificate issued near the close of the preceding period, which identification certificate so endorsed or validated shall constitute the identification certificate for the ensuing two-year period. If the identification certificate and potential identification certificate are unavailable, a fee as specified in Section 38260 shall not be paid.

Amended Ch. 1268, Stats. 1988. Effective January 1, 1989.

Article 5. Refusal of Identification

Grounds Requiring Refusal of Identification

38145. The department shall refuse the identification or renewal or transfer of identification of an off-highway motor vehicle subject to identification upon any of the following grounds:

(a) That the application contains any false or fraudulent statement.

(b) That the required fee has not been paid.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Grounds Permitting Refusal of Identification

38150. The department may refuse the identification or renewal or transfer of identification of an off-highway motor vehicle subject to identification in any of the following circumstances:

(a) If the department is satisfied that the applicant is not entitled thereto under this code.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

(c) If the department determines that the applicant has made or permitted unlawful use of any identification certificate, certificate of ownership, identification plates, or other identifying indicia.

Amended Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 6. Identification Plate or Device

Issuance of Identification Plates

38160. The department, upon identifying an off-highway motor vehicle subject to identification, shall issue to the owner a suitable identification plate or device which is capable of being attached to the vehicle in such a manner so as to not endanger the operator or passengers of the vehicle, and which shall identify the vehicle for which it is issued for the period of its validity.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Design of Identification Plates

38165. The department shall determine the size, color, and letters or number of the plate or device issued pursuant to this division and the life of the series of plate or device issued, but in no event less than six years. During the intervening identification periods for which the plate or

device is issued, the department shall issue a tab, sticker, or other suitable device to indicate the term for which such plate or device will be valid.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Display of Identification Plates

38170. (a) Every off-highway motor vehicle subject to identification shall have displayed upon it the identification number assigned to the vehicle for which it is issued, together with the word “California” or the abbreviation “CAL” and the year number for which it is issued or a suitable device issued by the department for validation purposes, which device shall contain the year for which it is issued.

(b) The identification plate or device shall at all times be securely fastened to the vehicle for which it is issued and shall be mounted or affixed in a position to be clearly visible, and shall be maintained in a condition so as to be clearly legible. No covering shall be used on the identification plate or device.

(c) All identification plates or devices issued on or after January 1, 1996, shall be displayed as follows:

(1) On the left fork leg of a motorcycle, either horizontal or vertical, and shall be visible from the left side of the motorcycle.

(2) On the left quadrant of the metal frame member of sand rails, rail-type buggies, and dune buggies, visible from the rear of the vehicle.

(3) On the left rear quadrant on permanent plastic or metal frame members of all-terrain vehicles, visible from the rear of the vehicle.

(4) On the left tunnel on the back quadrant of snowmobiles.

Amended Ch. 14, Stats. 1994. Effective January 1, 1995.

Article 7. Dismantling of Off-Highway Motor Vehicles

Application of Other Provisions Pertaining to Dismantling of Vehicles

38180. Chapter 3 (commencing with Section 11500) of Division 5 shall be applicable to off-highway motor vehicles subject to identification, except as provided in this article.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Subsequent Identification of Previously Dismantled or Salvaged Vehicles

38185. No off-highway motor vehicle subject to identification which has been reported dismantled or sold as salvage may be subsequently identified until it has been inspected by the department.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Article 8. Transfers of Title or Interest

Transfer of Title to Off-Highway Vehicles

38195. The provisions of Chapter 2 (commencing with Section 5600) of Division 3 shall be applicable to off-highway motor vehicles subject to identification, and the terms “registration,” “registration card,” and “registered” as used therein, shall apply to the terms “identification,” “identification certificate,” and “identified,” respectively, except that Sections 5901, 5902, 5903, 5904, 5906, and 6052 shall not apply.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Notice of Transfer by Dealers

38200. (a) Every licensed dealer upon transferring by sale, lease, or otherwise any off-highway motor vehicle subject to identification, whether new or used, of a type subject to identification under this division, shall, not later than the end of the fifth calendar day thereafter, not counting the day of sale, lease, or other transfer, give written notice of the transfer to the department upon an appropriate form provided by it; but a dealer need not give the notice when selling or transferring a new unidentified off-highway motor vehicle subject to identification to another dealer.

A “sale” shall be deemed completed and consummated when the purchaser of that vehicle has paid the purchase price, or, in lieu thereof, has signed a purchase contract or security agreement, and taken physical possession or delivery of that vehicle.

(b) Every dealer of off-highway motor vehicles subject to identification who is not licensed with the department, and who engages only in the sale of vehicles of a type not properly equipped for operation upon the highway and that are restricted to off-highway operation or use, shall comply with the provisions of Section 5900, or such regulations as the director determines are necessary to carry out the provisions of this division.

Amended Ch. 440, Stats. 1975. Effective January 1, 1976.

Application for Transfer

38205. Whenever any person has received as transferee a properly endorsed certificate of ownership, he or she shall, within 10 days thereafter, endorse the ownership certificate as required and forward the ownership certificate with the proper transfer fee and, if required under Section 38120, any other fee due and thereby make application for transfer of identification. The certificate of ownership shall contain a space for the applicant’s driver’s license or identification card number, and the applicant shall furnish that number, if any, in the space provided.

Amended Ch. 1221, Stats. 1994. Effective January 1, 1995.

Notice of Transfer to Dealer Not Required

38210. When the transferee of an off-highway motor vehicle subject to identification is a dealer who holds such vehicle for resale, the dealer is not required to make application for transfer, but upon transferring his title or interest to another person he shall comply with this division.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Payment of Use Tax

38211. (a) The department shall withhold identification of or the transfer of ownership of any vehicle subject to identification under this division until the applicant pays to the department the use tax measured by the sales price of the vehicle as required by the Sales and Use Tax Law, together with penalty, if any, unless the purchaser presents evidence on a form prescribed by the State Board of Equalization that sales tax will be paid by the seller or that use tax has been collected by the seller or that the State Board of Equalization finds that no use tax is due. If the applicant so desires, he may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his application for identification or transfer of ownership, and thereafter he may apply through the Department of Motor Vehicles to the State

Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule in such form as the department and board may prescribe.

(c) The State of Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. Such reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section dollar fractions shall be disregarded in the manner specified in Section 9559 of this code. Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as they are applicable to the use of vehicles to which this section relates.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Article 9. Identification Fees

Off-Highway Motor Vehicle: Identification: Service Fee

38225. (a) A service fee of seven dollars (\$7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of eight dollars (\$8) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles. All money shall be deposited in the fund, which is a trust fund, and, upon appropriation by the Legislature, shall be allocated by the Off-Highway Motor Vehicle Recreation Commission, as provided in this section. Money in the fund shall be administered by the commission, as trustee of the fund, and, subject to Section 5090.61 of the Public Resources Code, shall be allocated for those purposes set forth in Section 5090.50 of the Public Resources Code.

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

(e) This section shall remain in effect only until () **January 1, 2008**, and as of that date is repealed, unless a later enacted statute, that is enacted before () **January 1, 2008**, deletes or extends that date. Any unencumbered funds remaining in the Off-Highway Vehicle Trust Fund on () **January 1, 2008**, shall be transferred to the General Fund..

Amended Sec. 3, Ch. 970, Stats. 1995. Effective January 1, 1996.

Amended Sec. 2, Ch. 227, Stats. 2001. Effective January 1, 2002.

Amended Sec. 40, Ch. 563, Stats. 2002. Effective January 1, 2003.

Amended Sec. 57, Ch. 77, Stats. 2006. Effective July 18, 2006.

The 2006 amendment added the italicized material, and at the point(s) indicated, deleted the following "January 1, 2007"

NOTE: The preceding section is repealed January 1, 2008, at which time the following section becomes operative.

38225. (a) A service fee of seven dollars (\$7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) This section shall become operative on () **January 1, 2008**.

Amended Sec. 3, Ch. 227, Stats. 2001. Effective January 1, 2002.

Amended Sec. 58, Ch. 77, Stats. 2006. Effective January 1, 2008.

The 2006 amendment added the italicized material, and at the point(s) indicated, deleted the following "January 1, 2007"

Additional Service Fee

38225.4. In addition to the service fees specified in subdivision (a) of Section 38225, as amended by Section 6 of Chapter 964 of the Statutes of 1992, a fee of three dollars (\$3) shall be paid at the time of issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division. The department shall deposit the fee received under this section in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of maintaining the uniformed field strength of the Department of the California Highway Patrol.

Amended Sec. 29, Ch. 719, Stats. 2003. Effective January 1, 2004.

Additional Service Fee

38225.5. In addition to the service fees specified in Section 38225, a fee of three dollars (\$3) shall be paid at the time of issuance or renewal of identification of off-highway vehicles subject to identification, except as expressly exempted under this division. The department shall deposit the fee received under this section in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of increasing the uniformed field strength of the Department of the California Highway Patrol beyond its 1994 staffing level and those costs associated with maintaining this new level of uniformed field strength and carrying out those duties specified in subdivision (a) of Section 830.2 of the Penal Code.

Amended Sec. 30, Ch. 719, Stats. 2003. Effective January 1, 2004.

Additional Fee: In Lieu Tax

38230. In addition to the fees imposed by Section 38225, there shall be paid a four-dollar (\$4) fee for the issuance or renewal of identification for every off-highway motor vehicle subject to identification. The fee imposed by this section is in lieu of all taxes according to value levied for state or local purposes.

Added Ch. 1816, Stats. 1971. Operative July 1, 1972.

Fees for Special Permits

38231. The fees for a special permit issued under Section 38087 shall be the prevailing identification fees as set forth in Sections 38225 and 38230 and shall be deposited and

distributed as are identification fees under this chapter.

Added Ch. 973, Stats. 1972. Effective August 16, 1972.

Off-Highway Nonresident Special Operating Permit Fee

38231.5. (a) The fee for a special permit issued under Section 38087.5 shall be not less than twenty dollars (\$20), as established by the Department of Parks and Recreation. The Department of Parks and Recreation may adjust the special permit fee for a permit issued to a nonresident of this state under Section 38087.5, as necessary, to recover the costs of this program. After deducting its administrative and vendor costs, the Department of Parks and Recreation shall deposit the fees received under this section in the Off-Highway Vehicle Trust Fund. Money in the fund shall be allocated, upon appropriation, as provided in Sections 5090.50 and 5090.64 of the Public Resources Code.

(b) The Department of Parks and Recreation shall print the special permits required by Section 38087.5 and shall supervise the sale of those permits throughout the state.

(c) The Department of Parks and Recreation shall either distribute and sell the special permits directly or contract with vendors according to rules and regulations established by that department. The vendors shall receive a commission in an amount not to exceed 5 percent of the fee imposed pursuant to subdivision (a) for each special permit sold. The Department of Parks and Recreation may solicit the participation of qualified retail commercial enterprises engaged in the sale or rental of off-highway vehicles, equipment, accessories, or supplies to act as authorized vendors of the special permits and may authorize local and federal agencies that provide off-highway vehicle opportunities to act as authorized vendors of the special permits.

Amended Sec. 41, Ch. 563, Stats. 2002. Effective January 1, 2003.

Fee: Special Transportation Identification

38232. A special fee of fifteen dollars (\$15) shall be paid to the department for the issuance of a special transportation identification device issued pursuant to Section 38088 and shall be deposited in the Motor Vehicle Account in the Transportation Tax Fund. The fee is in lieu of the fees provided in Section 38225.

Amended Sec. 31, Ch. 719, Stats. 2003. Effective January 1, 2004.

Report and Deposit of Fees

38235. All money collected by the department under Section 38230 shall be reported monthly to the Controller and at the same time be deposited in the State Treasury to the credit of the Off-Highway License Fee Fund, which is hereby created.

Amended Sec. 5, Ch. 970, Stats. 1995. Effective January 1, 1996. Supersedes Sec. 2, Ch. 403.

Allocation and Use of Fees

38240. (a) The Controller shall allocate the fees collected under Section 38230 in July and January of each fiscal year to cities and counties based upon the proportional estimated off-highway motor vehicle use and related activity within the respective jurisdictions pursuant to the report described in subdivision (d) of Section 5090.15 of the Public Resources Code.

(b) The funds collected under Section 38230 shall be used for the purposes set forth in Sections 5090.50 and 5090.64 of the Public Resources Code.

(c) In addition to the purposes set forth in subdivision (b), funds received by a city or county pursuant to this section may be expended for facilities located outside the limits of the city or county if both of the following conditions are met:

(1) The funds are expended for the purposes of acquiring, developing, and constructing trails, areas, or other facilities for the use of off-highway motor vehicles.

(2) The funds are expended pursuant to an agreement with the city in which the facility is located or with the county in which the facility is located if the facility is located in an unincorporated territory.

(d) This section shall become operative on January 1, 2006.

Added Sec. 22, Ch. 908, Stats. 2004. Effective January 1, 2006.

Off-Highway Motor Vehicle: Identification Fee Allocation

38240.5. *For fees collected under Section 38230 before January 1, 2006, that have not been allocated on the operative date of this section, the Controller shall allocate those fees on or before June 30, 2007, as follows:*

(a) (1) Fifty percent of the fees shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For purposes of this paragraph, the population of each city or city and county is that population determined by the last federal decennial or special census, or a subsequent census validated by the population research unit or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code.

(2) In the case of a city incorporated subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the city. In the case of unincorporated territory annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit, the population of the consolidated city, for the purpose of this paragraph, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit.

(b) Fifty percent of the fees shall be paid to the counties and cities and counties in the proportion that the population of each county or city and county bears to the total population of all counties and cities and counties, as determined by the population research unit. For purposes of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by

the population research unit, or as determined by Section 11005.6 of the Revenue and Taxation Code.

(c) This section is repealed on January 1, 2008.

Added and repealed Sec. 7, Ch. 78, Stats. 2006. Effective July 18, 2006. Repeal operative January 1, 2008.

NOTE: The preceding section shall remain in effect only until January 1, 2008, and as of that date is repealed.

Delinquency of Fees

38245. Whenever an off-highway motor vehicle subject to identification is operated or transported in this state without the fees required by this division having first been paid, the fee is delinquent.

Amended Ch. 974, Stats. 1973. Operative July 1, 1974.

Penalties

38246. (a) A penalty shall be added upon any application for renewal of identification made on or after the day following the expiration date, except as provided in Section 4605, 38121, or 38247.

(b) If the fee specified in subdivision (a) or (b) of Section 38255 is not paid within 10 days after the fee becomes delinquent, a penalty shall be assessed.

(c) If renewal fee penalties have not accrued and the ownership of the vehicle is transferred, the transferee has 20 days from the date of transfer to pay the identification fees that become due without payment of any penalties that would otherwise be required under subdivision (a) or to file a certificate of nonoperation pursuant to subdivision (a) of Section 38121, if the vehicle will not be operated, used, or transported on public property or private property in a manner so as to subject the vehicle to identification during the subsequent identification period without first making application for identification of the vehicle, including full payment of all fees.

(d) Except as otherwise provided in this section, if any fee is not paid within 20 days after the fee becomes delinquent, a penalty shall be assessed.

Amended Sec. 17, Ch. 1008, Stats. 1999. Effective January 1, 2000.

Waiver of Penalties and Registration Fees

38247. (a) When a transferee or purchaser of a vehicle applies for transfer of identification, as provided in Section 38205, and it is determined by the department that penalties accrued prior to the purchase of the vehicle, and that the transferee or purchaser was not cognizant of the nonpayment of the fees for identification for the current or prior identification years, the department may waive the identification penalties upon payment of the fees for identification due.

(b) Other provisions of this code notwithstanding, the director may at his discretion investigate into the circumstances of any application for identification to ascertain if penalties had accrued through no fault or intent of the owner. Provided such circumstances prevail, the director may waive any penalties upon payment of the fees for identification then due.

(c) When a transferee or purchaser of a vehicle applies for transfer of identification of a vehicle, and it is determined by the department that fees for identification of the vehicle for any year are unpaid and due, that such fees became due prior to the purchase of the vehicle by the transferee or purchaser

and that the transferee or purchaser was not cognizant of the fact that such fees were unpaid and due, the department may waive such fees and any penalty thereon when the identification fees due for the vehicle for the current year are paid.

(d) Upon the transfer of a vehicle for which fees for identification and any penalties thereon are unpaid and due, such fees and penalties are, notwithstanding the provisions of Article 6 (commencing with Section 9800) of this chapter, the personal debt of the transferor of the vehicle who did not pay such fees and penalties when they became due or accrued. Such fees and penalties may be collected by the department in an appropriate civil action if the department has waived such fees and penalties pursuant to subdivision (c).

Added Ch. 935, Stats. 1976. Effective January 1, 1977.

Delinquency of Transfer Fees

38250. Whenever any person has received as transferee a properly endorsed certificate of ownership and the transfer fee has not been paid as required by this division within 10 days, the fee is delinquent.

Amended Ch. 1268, Stats. 1988. Effective January 1, 1989.

Transfer Application and Fees

38255. Upon application for transfer of ownership or any interest of an owner, or legal owner in or to any off-highway motor vehicle identified under this division, there shall be paid the following fees:

- (a) For a transfer by the owner \$15
- (b) For a transfer by the legal owner \$15
- (c) When application is presented showing a transfer by both the owner and legal owner . . . \$15

Amended Sec. 32, Ch. 719, Stats. 2003. Effective January 1, 2004.

Fees for Duplicate Certificates, Plates, Stickers

38260. Upon application for a duplicate ownership certificate or identification certificate, or a duplicate or substitute identification plate or device, or any other tabs, stickers, or devices, there shall be paid a fee in the amount of fifteen dollars (\$15).

Amended Sec. 33, Ch. 719, Stats. 2003. Effective January 1, 2004.

Penalty Fee for Delinquency

38265. (a) The penalty for delinquency in respect to any transfer shall be fifteen dollars (\$15), and shall apply only to the last transfer.

(b) The penalty for delinquency in respect to the fees imposed by Sections 38225 and 38230 shall be equal to one-half the fee after it has been computed.

Amended Sec. 34, Ch. 719, Stats. 2003. Effective January 1, 2004.

CHAPTER 5. OFF-HIGHWAY VEHICLE OPERATING RULES

Article 1. Traffic Signs, Signals, and Markings

Federal, State, and Local Authority

38280. Federal, state, or local authorities having jurisdiction over public lands may place or cause to be placed and maintained, such appropriate signs, signals and other traffic control devices as may be necessary to properly indicate and carry out any provision of law or any duly adopted regulation of such governmental authority or to warn or guide traffic.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Conformity to Uniform Standards

38285. Only those signs, signals, markings, or devices that conform to the uniform standards and specifications adopted by the Department of Parks and Recreation, with the approval of the Off-Highway Motor Vehicle Recreation Commission, shall be placed as provided in Section 38280.

Special signs, signals, markings, or devices may be used on a temporary basis for purposes of directing traffic on and at sanctioned events conducted on public lands with permission of the agency having administrative jurisdiction over such lands.

Amended Ch. 729, Stats. 1984. Effective January 1, 1985.

Organized Racing Events

38286. The provisions of Article 3 (commencing with Section 38305), Article 4 (commencing with Section 38312), Article 5 (commencing with Section 38316), Section 38319 of this chapter, and subdivision (h) of Section 38370 shall not apply to a motor vehicle being operated in an organized racing event that is conducted under the auspices of a recognized sanctioning body or by permit issued by the governmental authority having jurisdiction.

Amended Sec. 44, Ch. 563, Stats. 2002. Effective January 1, 2003.

Unlawful to Disobey Sign, Signal, or Traffic Control Device

38300. It is unlawful for the driver of any vehicle to disobey any sign, signal, or traffic control device placed or maintained pursuant to Section 38280.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Unlawful to Violate Special Regulations

38301. It is unlawful to operate a vehicle in violation of special regulations which have been promulgated by the governmental agency having jurisdiction over public lands, including, but not limited to, regulations governing access, routes of travel, plants, wildlife, wildlife habitat, water resources, and historical sites.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Vehicles: Prohibited Operation: Designated Wilderness Area

38301.3. Notwithstanding subdivision (d) of Section 5008 of the Public Resources Code, or any other provision of state law, and to the extent authorized under federal law, a person who violates a state or federal regulation that prohibits entry of a motor vehicle into all or portions of an area designated as a federal or state wilderness area is guilty of a public offense and shall be punished as follows:

(a) Except as provided in subdivisions (b) and (c), the offense is an infraction punishable by a fine not exceeding one hundred fifty dollars (\$150).

(b) For a second offense committed within seven years after a prior violation for which there was a conviction punishable under subdivision (a), the offense is an infraction punishable by a fine not exceeding two hundred twenty-five dollars (\$225).

(c) (1) For a third or subsequent offense committed within seven years after two or more prior violations for which there were convictions punishable under this section, the offense is a misdemeanor punishable by a fine not exceeding three hundred dollars (\$300) or by imprisonment in the county jail

not exceeding 90 days, or by both that fine and imprisonment.

(2) In addition to the fine imposed under paragraph (1), the court may order impoundment of the vehicle used in the offense under the following conditions:

(A) The person convicted under this subdivision is the owner of the vehicle.

(B) The vehicle is subject to Section 4000 or 38010.

(3) The period of impoundment imposed pursuant to this subdivision shall be not less than one day nor more than 30 days. The impoundment shall be at the owner's expense.

Added Sec. 4, Ch. 571, Stats. 2005. Effective January 1, 2006.

Violation of Special Regulations: Penalties

38301.5. Every person convicted of violating a local ordinance which is adopted by a city with a population over 2,000,000 persons pursuant to Section 38301 and which prohibits entry into all or portions of an area designated by ordinance as a mountain fire district shall be punished as follows:

(a) Except as provided in subdivisions (b) and (c), the offense is an infraction punishable by a fine not exceeding one hundred fifty dollars (\$150).

(b) For a second offense committed within one year of a prior violation for which there was a conviction punishable under subdivision (a), the offense is punishable as an infraction by a fine not exceeding two hundred fifty dollars (\$250).

(c) (1) For a third or subsequent offense committed within one year of two or more prior violations for which there were convictions punishable under this section, the offense is punishable as a misdemeanor by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail not exceeding 90 days, or by both that fine and imprisonment. Additionally, the court may order impoundment of the vehicle used in the offense under the following conditions:

(A) The person convicted under this subdivision is the owner of the vehicle.

(B) The vehicle is subject to Section 38010.

(2) The period of impoundment imposed pursuant to this subdivision shall be not less than one day nor more than 30 days. The impoundment shall be at the owner's expense.

Added Ch. 1015, Stats. 1984. Effective January 1, 1985.

Unlawful to Place Unauthorized Signs

38302. It is unlawful for any person to place or erect any sign, signal, or traffic control device for off-highway traffic upon public lands unless authorized by law.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 2. Operating Controls

Ability to Reach and Operate Controls

38304. The operator of an off-highway motor vehicle shall be able to reach and operate all controls necessary to safely operate the vehicle.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 3. Speed Laws

Basic Speed Law

38305. No person shall drive an off-highway motor vehicle at a speed greater than is reasonable or prudent and

in no event at a speed which endangers the safety of other persons or property.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Prima Facie Speed Limit

38310. The prima facie speed limit within 50 feet of any campground, campsite, or concentration of people or animals shall be 15 miles per hour unless changed as authorized by this code and, if so changed, only when signs have been erected giving notice thereof.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 4. Turning and Starting

Starting Parked Vehicles

38312. No person shall place in motion an off-highway motor vehicle that is stopped, standing, or parked until such movement can be made with reasonable safety.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Turning Movements

38314. No person shall turn an off-highway motor vehicle from a direct course or move right or left until such movement can be made with reasonable safety.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 5. Reckless Driving

Reckless Driving

38316. (a) It is unlawful for any person to drive any off-highway motor vehicle with a willful and wanton disregard for the safety of other persons or property.

(b) Any person who violates this section shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or by both such fine and imprisonment, except as provided in Section 38317.

Amended Ch. 1092, Stats. 1983. Effective September 26, 1983. Operative January 1, 1984.

Reckless Driving Causing Bodily Injury

38317. Whenever reckless driving of an off-highway motor vehicle proximately causes bodily injury to any person, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by both such fine and imprisonment.

Amended Ch. 1092, Stats. 1983. Effective September 26, 1983. Operative January 1, 1984.

Throwing Substances at Off-Highway Motor Vehicles

38318. (a) Any person who throws any substance at an off-highway motor vehicle or occupant thereof is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) Any person who, with intent to do great bodily injury, maliciously and willfully throws or projects any rock, brick, bottle, metal, or other missile, projects any other substance capable of doing serious bodily harm, or discharges a firearm at an off-highway motor vehicle or occupant thereof is guilty of a felony.

Amended Ch. 729, Stats. 1984. Effective January 1, 1985.

Malicious Acts

38318.5. (a) Any person who maliciously removes or alters trail, danger, or directional markers or signs provided for the safety or guidance of off-highway motor vehicles is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) Any person who, with intent to do great bodily injury (1) proximately causes great bodily injury to any person as a result of acts prohibited by subdivision (a), or (2) erects or places any cable, chain, rope, fishing line, or other similar material which is unmarked or intentionally placed, or both, for malicious purpose is guilty of a felony.

(c) Any person convicted under subdivision (a) or (b) shall, if the violation proximately causes one or more adverse environmental impacts, also be liable in civil damages for the cost of mitigation, restoration, or repair thereof, in addition to any other liability imposed by law.

Amended Ch. 1322, Stats. 1985. Effective January 1, 1986.

Article 6. Littering and Environmental Protection

Operation Causing Damage

38319. No person shall operate, nor shall an owner permit the operation of, an off-highway motor vehicle in a manner likely to cause malicious or unnecessary damage to the land, wildlife, wildlife habitat or vegetative resources.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Throwing, Depositing, or Dumping Matter

38320. (a) No person shall throw or deposit, nor shall the registered owner or the driver, if such owner is not then present in the vehicle, aid or abet in the throwing or depositing, upon any area, public or private, any bottle, can, garbage, glass, nail, offal, paper, wire, any substance likely to injure or kill wild or domestic animal or plant life or damage traffic using such area, or any noisome, nauseous or offensive matter of any kind.

(b) No person shall place, deposit or dump, or cause to be placed, deposited or dumped, any rocks or dirt in or upon any area, public or private, without the consent of the property owner or public agency having jurisdiction over the area.

(c) Any person who violates this section shall, upon conviction thereof, be punished by a fine of not less than fifty dollars (\$50). No part of such fine shall be suspended. The court may permit the fine required by this section to be paid in installments if the court determines that the defendant is unable to pay the fine in one lump sum.

Amended Ch. 1092, Stats. 1983. Effective September 26, 1983. Operative January 1, 1984.

Removal of Material

38321. (a) Any person who drops, dumps, deposits, places, or throws, or causes or permits to be dropped, dumped, deposited, placed, or thrown, upon any area, any material described in Section 38320, shall immediately remove the material or cause it to be removed.

(b) If such person fails to comply with the provisions of this section, the governmental agency responsible for the maintenance of the area, or the property owner of the land on which the material has been deposited, may remove such

material and collect, by civil action, if necessary, the actual cost of the removal operation in addition to any other damages authorized by law from the person who did not comply with the requirements of this section.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

CHAPTER 6. EQUIPMENT OF OFF-HIGHWAY VEHICLES

Article 1. General Provisions

Applicability of Provisions

38325. The provisions of this chapter shall apply to all off-highway motor vehicles, as defined in Section 38006, when operated in areas in which this division has application.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Vehicle Not Equipped or Unsafe

38330. It is unlawful to operate any vehicle or combination of vehicles which is in an unsafe condition, which is not equipped as required by this chapter or the equipment regulations of the governmental agency having jurisdiction over public lands, or which is not safely loaded.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 2. Lighting Equipment

Headlamps

38335. When operated from one-half hour after sunset to one-half hour before sunrise, each motor vehicle shall be equipped with at least one lighted white headlamp directed toward the front of the vehicle. Such lamp shall be of an intensity sufficient to reveal persons and vehicles at a distance of at least 200 feet.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Taillamps

38345. When operated from one-half hour after sunset to one-half hour before sunrise, each motor vehicle which is not in combination with any other vehicle shall be equipped with at least one lighted red taillamp which shall be clearly visible from the rear.

(a) Every such vehicle or vehicles at the end of a combination of vehicles shall be equipped with one lighted red taillamp when operated from one-half hour after sunset to one-half hour before sunrise.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Prohibition: Warning Lights

38346. A person shall not display a flashing or steady burning red or blue warning light on an off-highway motor vehicle except as permitted by Section 21055 or when an extreme hazard exists.

Added Sec. 24, Ch. 908, Stats. 2004. Effective January 1, 2005.

Article 3. Brakes

Service Brakes Required

38355. (a) Except as provided in subdivision (b), every motor vehicle shall be equipped with a service brake system which is in good working order and adequate to control the movement of, and to stop and hold to the limit of traction of, such vehicle or combination of vehicles under all conditions of loading and upon any grade on which it is operated.

(b) Any motor vehicle, such as an air-cushioned vehicle, which is unable to comply with the requirements of this

section due to the method of operation, is exempt, if the operator is able to exercise safe control over the movement of such vehicle.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 4. Equipment

Mufflers and Exhaust Systems

38365. (a) Every off-highway motor vehicle, as defined in Section 38006, shall at all times be equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of Section 38370, and no muffler or exhaust system shall be equipped with a cutout, bypass, or similar device.

(b) The provisions of subdivision (a) shall not be applicable to vehicles being operated off the highways in an organized racing or competitive event upon a closed course or in a hill climb or drag race, which is conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Spark Arrester

38366. (a) Notwithstanding Section 4442 of the Public Resources Code, and except for vehicles with mufflers as provided in Article 2 (commencing with Section 27150) of Chapter 5 of Division 12, no person shall use, operate, or allow to be used or operated, any off-highway motor vehicle, as defined in Section 38006, on any forest-covered land, brush-covered land, or grass-covered land unless the vehicle is equipped with a spark arrester maintained in effective working order.

(b) A spark arrester affixed to the exhaust system of a vehicle subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.

(c) A spark arrester is a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine or which is qualified and rated by the United States Forest Service.

(d) Subdivision (a) shall not be applicable to vehicles being operated off the highway in an organized racing or competitive event upon a closed course, which is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction.

Added Ch. 1027, Stats. 1987. Effective January 1, 1988.

Noise Limits

38370. (a) The Department of Motor Vehicles shall not identify any new off-highway motor vehicle, which is subject to identification and which produces a maximum noise level that exceeds the following noise limit, at a distance of 50 feet from the centerline of travel, under test procedures established by the Department of the California Highway Patrol.

(1) Any such vehicle manufactured before
January 1, 1973 92 dBA

(2) Any such vehicle manufactured on or after
January 1, 1973, and before January 1, 1975 88 dBA

(3) Any such vehicle manufactured on or after January 1, 1975, and before January 1, 1986 86 dBA

(4) Any such vehicle manufactured on or after January 1, 1986 82 dBA

(b) The department may accept a dealer's certificate as proof of compliance with this section.

(c) Test procedures for compliance with this section shall be established by the Department of the California Highway Patrol, taking into consideration the test procedures of the Society of Automotive Engineers.

(d) No person shall sell or offer for sale any new off-highway motor vehicle which is subject to identification and which produces a maximum noise level that exceeds the noise limits in subdivision (a), and for which noise emission standards or regulations have not been adopted by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).

(e) No person shall sell or offer for sale any new off-highway motor vehicle which is subject to identification and which produces a noise level that exceeds, or in any way violates, the noise emission standards or regulations adopted for such a motor vehicle by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).

(f) As used in this section, the term "identify" is equivalent to the term "licensing" as used in Section 6(e)(2) of the Federal Noise Control Act of 1972 (P.L. 92-574).

(g) Any off-highway motor vehicle, when operating pursuant to Section 38001, shall at all times be equipped with a silencer, or other device, which limits noise emissions to not more than 101 dBA if manufactured on or after January 1, 1975, or 105 dBA if manufactured before January 1, 1975, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287. This subdivision shall only be operative until January 1, 2003.

(h) On and after January 1, 2003, off-highway motor vehicles, when operating pursuant to Section 38001, shall at all times be equipped with a silencer, or other device, which limits noise emissions.

(1) Noise emissions of competition off-highway vehicles manufactured on or after January 1, 1998, shall be limited to not more than 96 dBA, and if manufactured prior to January 1, 1998, to not more than 101 dBA, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as applicable. Noise emissions of all other off-highway vehicles shall be limited to not more than 96 dBA if manufactured on or after January 1, 1986, and not more than 101 dBA if manufactured prior to January 1, 1986, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as applicable.

(2) The Off-Highway Motor Vehicle Recreation Division of the Department of Parks and Recreation shall evaluate and reassess the dates specified in paragraph (1) and include the findings and recommendations in the noise report required in subdivision (o) of Section 5090.32 of the Public Resources Code.

(i) Off-highway vehicle manufacturers or their agents prior to the sale to the general public in California of any new off-highway vehicle model manufactured after January 1, 2003, shall provide to the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation rpm data needed to conduct the J-1287 test, where applicable.

Amended Sec. 45, Ch. 563, Stats. 2002. Effective January 1, 2003.
Amended Sec. 25, Ch. 908, Stats. 2004. Effective January 1, 2005.

Prohibition: Use of Siren

38375. (a) An off-highway motor vehicle, except an authorized emergency vehicle, shall not be equipped with a siren.

(b) A person driving an off-highway motor vehicle, except the driver of an authorized emergency vehicle as permitted by 21055, shall not use a siren.

Added Sec. 26, Ch. 908, Stats. 2004. Effective January 1, 2005.

Additional Equipment

38380. (a) Because of specialized conditions such as fire hazard, public safety or other circumstances, any local authority, or state or federal agencies having control over public lands may require that vehicles being operated off highway be equipped with additional equipment.

(b) When such additional equipment is required in a specific location, the governmental agency having jurisdiction over that location shall insure that such regulations are posted in a manner that operators of off-highway motor vehicles using those locations will be aware of the special requirements.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Article 5. Emission Control Equipment

Pollution Control Device

38390. No person shall operate or maintain in a condition of readiness for operation any off-highway motor vehicle which is required to be equipped with a motor vehicle pollution control device under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code or with any other certified motor vehicle pollution control device required by any other state law or any rule or regulation adopted pursuant to such law, or required to be equipped with a motor vehicle pollution control device pursuant to the Clean Air Act (42 U.S.C. 1857 et seq.) and the standards and regulations promulgated thereunder, unless it is equipped with the required motor vehicle pollution control device which is correctly installed and in operating condition. No person shall disconnect, modify, or alter any such required device. Notwithstanding Section 43107 of the Health and Safety Code, this section shall apply only to off-highway motor vehicles of the 1978 or later model year.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Modification Devices

38391. No person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, any required off-highway motor vehicle pollution control device or system which alters or modifies the original design or performance of any such motor vehicle pollution control device or system.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Imposition of Penalty for Willful Violation

38392. When the court finds that a person has willfully violated any provision of this article, such person shall be fined the maximum amount that may be imposed for such an offense, and no part of the fine may be suspended.

“Willfully”, as used in this section, has the same meaning as the meaning of that word prescribed in Section 7 of the Penal Code.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Operation after Notice

38393. No person shall operate an off-highway motor vehicle after notice by a traffic officer or other authorized public officer that such vehicle is not equipped with the required certified motor vehicle pollution control device correctly installed in operating condition, except as may be necessary to return the vehicle to the residence or place of business of the owner or driver or to a garage, until the vehicle has been properly equipped with such a device.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Proof of Correction

38394. The notice to appear issued or complaint filed for a violation of any provision of this Article shall require that the person to whom the notice to appear is issued or against whom the complaint is filed produce proof of correction pursuant to Section 40150.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Modification Devices: Exceptions to Prohibition

38395. This Article shall not apply to an alteration, modification, or modifying device, apparatus, or mechanism found by resolution of the State Air Resources Board either:

- (a) To not reduce the effectiveness of any required off-highway motor vehicle pollution control device; or
- (b) To result in emissions from any such modified or altered off-highway vehicle which are at levels which comply with existing state or federal standards for that model year of the vehicle being modified or converted.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Federally Owned Off-Highway Vehicles

38396. The provisions of this Article apply to off-highway motor vehicles of the United States or its agencies, to the extent authorized by federal law.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

Applicability

38397. Except as provided in Section 38390, this Article shall be applicable to all off-highway motor vehicles, whether or not subject to identification pursuant to this division and without limitation by the exceptions contained in Section 38001, and to all off-highway motor vehicles operated or maintained in a condition of readiness for operation on private or public property.

Added Ch. 1093, Stats. 1976. Effective January 1, 1977.

CHAPTER 7. ALL-TERRAIN VEHICLES

Off-Highway Vehicle Safety Education Committee

38500. The Off-Highway Vehicle Safety Education Committee is hereby established. The committee consists of the Commissioner of the California Highway Patrol, the

Deputy Director of Parks and Recreation for Off-Highway Vehicles, the Director of Motor Vehicles, or their designees, and a member of the Off-Highway Motor Vehicle Recreation Commission appointed by the members of the commission. The committee shall receive staff assistance in its operations from the Off-Highway Motor Vehicle Recreation Division in the Department of Parks and Recreation.

Added Ch. 881, Stats. 1987. Effective January 1, 1988.

Duties of Committee

38500.1. The Off-Highway Vehicle Safety Education Committee shall meet periodically to perform all of the following:

(a) Develop minimum criteria for certification as an approved all-terrain vehicle safety training organization. The criteria shall include, but not be limited to, the following:

(1) Curriculum and materials for training instructors to teach all-terrain vehicle operation and safety.

(2) Curriculum and materials for training all-terrain vehicle safety.

(3) Curriculum for teaching responsible use of off-highway vehicles with respect to environmental considerations, private property restrictions, off-highway vehicle operating laws, including noise and spark arrestor laws, and prohibitions against operating off-highway vehicles under the influence of alcohol or drugs.

(4) Record keeping and insurance requirements to satisfy the requirements of Sections 11103.1 and 11108.

(b) Upon presentation to the committee of a proposed program by an applicant to become an approved all-terrain vehicle safety training organization, the committee shall determine whether the applicant's program meets the minimum criteria and, if approved, shall recommend the organization for licensing pursuant to Section 11105.6.

Added Ch. 881, Stats. 1987. Effective January 1, 1988.

Safety Certificates

38501. (a) An all-terrain vehicle safety training organization, commencing on January 1, 1989, shall issue an all-terrain vehicle safety certificate furnished by the department to any individual who successfully completes a course of instruction in all-terrain vehicle operation and safety as approved and certified by the Off-highway Vehicle Safety Education Committee.

(b) The department shall charge a fee not to exceed three dollars (\$3) for each all-terrain vehicle safety certificate issued by an all-terrain vehicle safety training organization to each person completing a course of instruction from an all-terrain vehicle safety instructor using the approved course of instruction of the all-terrain vehicle safety training organization. The amount of the fee shall be determined by the department and shall be sufficient to defray the actual costs incurred by the department for administering and monitoring this program.

(c) An all-terrain vehicle safety training organization shall not charge a fee in excess of the fee charged by the department pursuant to subdivision (b) for furnishing an all-terrain vehicle safety certificate. An organization may charge a fee not to exceed three dollars (\$3) in addition to the fee charged by the department for the issuance of a duplicate certificate and shall provide a duplicate certificate if

requested by the person who completed the course.

Added Ch. 881, Stats. 1987. Effective January 1, 1988.

Monitoring

38502. The department, on and after July 1, 1988, may monitor any all-terrain vehicle safety training organization or any all-terrain vehicle safety instructor without advance notice. The monitoring may include, but is not limited to, the instruction provided, business practices, and records required by Section 11108.

Added Ch. 881, Stats. 1987. Effective January 1, 1988.

Conditions for Operating: Minors

38503. No person under the age of 18 years, on and after January 1, 1990, shall operate an all-terrain vehicle on public lands of this state unless the person satisfies one of the following conditions:

(a) The person is taking a prescribed safety training course under the direct supervision of a certified all-terrain vehicle safety instructor.

(b) The person is under the direct supervision of an adult who has in their possession an appropriate safety certificate issued by this state, or issued under the authority of another state.

(c) The person has in possession an appropriate safety certificate issued by this state or issued under the authority of another state.

Added Ch. 881, Stats. 1987. Effective January 1, 1988.

Conditions for Operating: Additional Requirements

38504. No person under 14 years of age, on and after January 1, 1990, shall operate an all-terrain vehicle on public lands of this state unless the person satisfies one of the conditions set forth in Section 38503 and, in addition, is accompanied by and under the direct supervision of a parent or guardian or is accompanied by and under the direct supervision of an adult who is authorized by the parent or guardian.

Added Ch. 881, Stats. 1987. Effective January 1, 1988.

Violation of Operating Conditions: Fines

38504.1. (a) *Neither a parent or guardian of a child who is under 14 years of age, nor an adult who is authorized by the parent or guardian to supervise that child shall grant permission to, or knowingly allow, that child to operate an all-terrain vehicle in a manner that violates Section 38504.*

(b) *A person convicted of a violation of subdivision (a) is punishable as follows:*

(1) *For a first conviction, the court shall either impose a fine of one hundred twenty-five dollars (\$125) or order the person to take or retake and complete an all-terrain vehicle safety training course pursuant to Section 38501. If ordered to take or retake and complete the safety training course, the person shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.*

(2) *For a second conviction, a fine of not less than one hundred twenty-five dollars (\$125) nor more than two hundred fifty dollars (\$250).*

(3) *For a third or any subsequent conviction, a fine of not less than two hundred fifty dollars (\$250) nor*

more than five hundred dollars (\$500).

Added Sec. 1, Ch. 195, Stats. 2006. Effective January 1, 2007.

Court Ordered Safety Training Course

38504.2. *If a person under 14 years of age was not properly supervised or accompanied in accordance with Section 38504, and the parent or guardian of that child or the adult who was authorized by the parent or guardian to supervise or accompany that child is in violation of Section 38504.1, upon a conviction pursuant to Section 38504, the court may order that child to attend and complete the all-terrain vehicle safety training course accompanied by the person who violated Section 38504.1. If so ordered, the child under 14 years of age shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.*

Added Sec. 2, Ch. 195, Stats. 2006. Effective January 1, 2007.

Safety Helmet Required

38505. No person, on and after January 1, 1989, shall operate, ride, or be otherwise propelled on an all-terrain vehicle on public lands unless the person wears a safety helmet meeting requirements established for motorcycles and motorized bicycles, pursuant to Section 27802.

Amended Ch. 165, Stats. 1988. Effective January 1, 1989.

Passengers Prohibited

38506. No operator of an all-terrain vehicle may carry a passenger when operating on public lands.

However, the operator of an all-terrain vehicle, that is designed for operation off of the highway by an operator with no more than one passenger, may carry a passenger when operating on public lands.

Amended Sec. 2, Ch. 252, Stats. 2003. Effective January 1, 2004.